MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2019/2020

UIP2612 – INTELLECTUAL PROPERTY LAW

(All Sections / Groups)

16 OCTOBER 2019
Reading Time: 2.30 p.m. – 2.45 p.m.
(15 Minutes)
Answering Time: 2.45 p.m. – 5.45 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This question paper consists of 3 pages with 4 questions only.

3. Attempt ALL questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of the following statutes into the exam venue:
   i) Copyright Act 1987
   ii) Patents Act 1983
   iii) Industrial Designs Act 1996
   iv) Trade Marks Act 1976.

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

(a) Explain the labour theory and the personality theory in relation to the justification for intellectual property rights.

(10 marks)

(b) Explain how the labour theory and the personality theory influenced the nature of copyright law in relation to the following:

(i) The originality doctrine for protection of databases; and

(ii) The duration of copyright protection.

(15 marks)

(Total: 25 marks)

QUESTION 2

Answer either (A) or (B).

(A) (i) Explain the advantages and disadvantages of recognising the concept of corporate authorship.

(10 marks)

(ii) With reference to decided cases and the Copyright Act 1987, discuss whether Malaysian copyright law recognises the concept of corporate authorship, and why such recognition, if it exists, is problematic.

(15 marks)

(Total: 25 marks)

~~~~~ OR ~~~~~

(B) With reference to decided cases, discuss the various principles applicable to recognising spare parts and machinery components as a 'design' under the Industrial Designs Act 1996.

(Total: 25 marks)

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QUESTION 3

Rozi, a chemist, discovered a chemical substance in a plant known as *Peria* that could be used as a medicine to treat certain types of cancer. She developed a new process to extract the chemical substance.

Advise Rozi on whether she can patent her discoveries as a product and a process patent under the Patents Act 1983 in Malaysia.

(Total: 25 marks)

QUESTION 4

Answer either (A) or (B).

(A) Sam, an owner of a famous Milk Tea Shop known as 'The Valley', decided to expand her business by opening more branches throughout Malaysia. An iconic fury bear with a slogan "It's time for tea!" is used as a logo for the Valley's business and this logo is printed on The Valley's packaging and advertising materials.

The Valley is also known for their signature '*Bearioca*' milk tea—a brown sugar drink made with four types of brown sugar syrup, fresh milk, mini *bobas* (which are cooked in brown sugar water), and topped with a thick creamy mousse.

Consider the following situations which are independent of each other:

(i) Sam decided to register the logo of an iconic fury bear with a slogan "It's time for tea!" as a trade mark. Advise Sam on whether the above logo with a slogan can be registered as a trade mark under the Trade Marks Act 1976.

(10 marks)

(ii) Zara, a friend of Sam, recently opened a Milk Tea Shop known as "The Alley". The Alley serves the same signature milk tea also named as '*Bearioca*' milk tea. Advise Sam on whether she has any legal recourse against Zara under the law of passing off.

(15 marks)

(Total: 25 marks)

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(B) Krunchies is a manufacturer of cookies and has been selling cookies in Malaysia for more than twenty years. One of its cookie products bearing the name 'ChipsMore', and marketed in red and white packaging, had won many customers' hearts for its delicious and chocolaty taste. Krunchies has not yet registered 'ChipsMore' as a trade mark under the Trade Marks Act 1976 but intends to do so shortly.

Munchy, another cookie manufacturer. recently started manufacturing and selling cookies under the brand 'ChipsPlus'. 'ChipsPlus' is also marketed in red and white packaging, similar to 'ChipsMore'. Feedbacks from Krunchies' customers show that the resemblance of the packagings had caused confusion to them. Some of Krunchies' customers had also mistakenly bought 'ChipsPlus' believing that it was 'ChipsMore'. Unsatisfied, Krunchies decided to take legal action against Munchy.

Advise Krunchies on taking action against Munchy under:

(i) the law of passing off, and

(15 marks)

(ii) Trade Marks Act 1976.

(10 marks)

(Total: 25 marks)

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